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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

OFFICE OF THE
EXECUTIVE DIRECTOR

Stop 2-6

October 11, 1991

Taylor R. Briggs, Esq.
LeBoeuf, Lamb, Leiby & MacRae
520 Madison Avenue
New York, New York 10022

RE: FOIA #91-1351

Dear Mr. Briggs:

This is in response to your letter dated October 3, 1991, and received in this Office on October 4, 1991, in which you request access to a letter from Ms. Mary E.T. Beach to Don J. Pease concerning Lloyd's of London's solicitation of American citizens to become participants in Lloyds, pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. 552. We have identified the responsive letter and made a determination to grant access. A copy of the letter is enclosed. If you have any questions, please contact Arleta D. Cunningham of my staff at (202) 272-3651

Sincerely,

[Hannah R. Hall]

Hannah R. Hall
FOIA/Privacy Act Branch Chief

Enclosure

[Seal]

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

DIVISION OF
CORPORATION FINANCE

August 5, 1991

CHAIRMAN'S OFFICE
MAILED
AUG 5 1991

The Honorable Don J. Pease
United States House
of Representatives
2410 Rayburn Building
Washington, D.C. 20515

Signed by: _____

Re: Lloyd's of London

Dear Congressman Pease:

I have been asked to respond to your letter of June 20, 1991 in which you ask certain questions pertaining to a letter you received from one of your constituents, Mr. John Steiner Roby. Mr. Roby's letter concerns the solicitation of American citizens to become participants in Lloyd's of London ("Lloyd's") by becoming Names, and the subsequent losses of those who become Names.

Before we address your specific questions perhaps it would be helpful if we briefly described the unique structure of Lloyd's, as it is not an insurance company in the manner of a typical U.S. insurance company. There are three basic components of Lloyd's. First is Lloyd's itself ("Lloyd's") which is not a company but rather an insurance marketplace at which individuals conduct separate insurance underwriting businesses. The second component is the Corporation of Lloyd's, whose sole function is to provide the premises, administrative staff and support services. The third component is the Council of Lloyd's

(the "Council") which is the body charged with regulating the entire Lloyd's structure. The individuals who comprise Lloyd's, called "Members" or "Names", conduct their underwriting business exclusively through "Members' Agents". All Members must be elected to their memberships by the Council and must be sponsored by two other members. All of a Member's underwriting business at Lloyd's is conducted pursuant to a standard Agency Agreement with the Members' Agent. The Agency Agreement grants the Members' Agent continuing authority to conduct the Members' underwriting business, including accepting risks and effecting reinsurance, collecting all premiums due the Member, and paying all liabilities and other obligations of a Member. In essence, a Member delegates complete control of his affairs to the Members' Agent and the Member may take no part in the day-to-day business. The Members' Agent exercises virtually complete control over Members' syndicate participation. Finally, the active insurance underwriters at the end of the chain are principals or employees of "Managing Agents", which are U.K. Corporations or partnerships approved by the Council to accept insurance risks at Lloyd's. Managing Agents are either also Members' Agents or are the agents of such Members' Agents.

Your first question is whether there is any regulation of Lloyd's solicitation of participations in the United States. The staff of the Commission's Division of Corporation Finance has had discussions on two occasions with Lloyd's concerning the applicability of the Securities Act of 1933 (the "Securities Act") and the Securities Exchange Act of 1934 (the "Exchange Act") to the solicitation of

U.S. Citizens to participate in Lloyd's. It is the Division's position that the solicitation of participations involves the sale of a security, with the issuer of that security being the particular Members' Agent involved. Accordingly, such U.S. sales would be subject to all of the provisions of the Securities Act and the Exchange Act, including the anti-fraud provisions. At the time of those prior discussions, it was determined that if the Members' Agents solicited participations in accordance with the procedures proposed by Lloyd's counsel (an offering structure intended to comply with the Commission's Regulation D), registration under the Securities Act would not be required. However, in light of the issues raised by Mr. Roby and others, the staff may consider whether the actions of Members' Agents were consistent with the earlier representations of counsel and whether further action is appropriate.

Your second question is whether the participations in Lloyd's are analogous to partnerships and what regulations apply to those types of investments. While Lloyd's participations do more closely resemble general partnership interests than they do other securities, such as shares of common stock, they are quite unique investments. For example, they may only be held by individuals, they are not transferable, even under the laws of descent and distribution, and the liability thereunder is unlimited although no Name is liable for the "share" of other Names. There is no existing precedent as to whether Lloyd's participations are securities but, as was pointed out above, the Division of Corporation Finance believes

they are securities and as such are subject to the provisions of the Federal securities laws in the same manner and to the same extent as more conventional securities.

Finally, you ask whether U.S. participants in Lloyd's properly can obtain venue in litigation against Lloyd's in the United States. Your constituent asserted that litigation against Lloyd's in the United States has been terminated as not being properly venued. We are not aware of the litigation to which your constituent refers, although it may involve a cause of action outside the Federal securities laws. However, subject to certain limitations and conditions, the provisions of the Federal securities laws generally are as applicable to the sales of foreign securities (including participations in Lloyd's) in the United States as they are to the sales of domestic securities.

I hope that the above material will be helpful in responding to your constituent's concerns. If you have any further questions, please do not hesitate to contact me.

Sincerely,

Mary E. T. Beach
Senior Associate Director